



6712-01

FEDERAL COMMUNICATIONS COMMISSION

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: The Federal Communications Commission (FCC), as part of its continuing effort to reduce paperwork burdens, invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act (PRA) of 1995. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and (e) ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to the Federal Communications Commission via email to PRA@fcc.gov and Cathy.Williams@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418-2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060-1162.

Title: Closed Captioning of Video Programming Delivered Using Internet Protocol, and Apparatus Closed Caption Requirements.

Form Number: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Individuals or households; Businesses or other for-profit entities; Not-for-profit institutions.

Number of Respondents and Responses: 1,762 respondents; 4,684 responses.

Estimated Time per Response: 0.084 to 10 hours.

Frequency of Response: One time and on occasion reporting requirements; Recordkeeping requirement; Third-party disclosure requirement.

Obligation to Respond: Mandatory; Required to obtain or retain benefits. The statutory authority for this information collection is contained in the Twenty-First Century Communications and Video Accessibility Act of 2010, Pub. L. 111-260, 124 Stat. 2751, and Sections 4(i), 4(j), 303, 330(b), 713, and 716 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 303, 330(b), 613, and 617.

Total Annual Burden: 11,685 hours.

Total Annual Cost: \$307,800.

Privacy Act Impact Assessment: Yes. The Privacy Impact Assessment (PIA) was completed on June 28, 2007. It may be reviewed at: http://www.fcc.gov/omd/privacyact/Privacy_Impact_Assessment.html. The Commission is in the process of updating the PIA to incorporate various revisions made to the SORN.

Nature and Extent of Confidentiality: Some assurances of confidentiality are being provided to the respondents.

Parties filing petitions for exemption based on economic burden, requests for Commission determinations of technical feasibility and achievability, requests for purpose-based waivers, or responses to complaints alleging violations of the Commission's rules may seek confidential treatment of information they provide pursuant to the Commission's existing confidentiality rules. See 47 CFR 0.459.

The Commission is not requesting that individuals who file complaints alleging violations of the Commission's rules (complainants) submit confidential information (e.g., credit card numbers, social security numbers, or personal financial information) to the Commission. The Commission requests that complainants submit their names, addresses, and other contact information, which Commission staff needs to process complaints. Any use of this information is covered under the routine uses listed in the Commission's SORN, FCC/CGB-1, "Informal Complaints and Inquiries."

The PIA that the FCC completed on June 28, 2007 gives a full and complete explanation of how the FCC collects, stores, maintains, safeguards, and destroys PII, as required by OMB regulations and the Privacy Act, 5 U.S.C. 552a. The PIA may be viewed at:

http://www.fcc.gov/omd/privacyact/Privacy_Impact_Assessment.html.

Also, the Commission will prepare a revision to the SORN and PIA to cover the PII collected related to this information collection, as required by OMB's Memorandum M-03-22 (September 26, 2003) and by the Privacy Act, 5 U.S.C. 552a.

Needs and Uses: On January 13, 2012, in document FCC 12-9, the Commission released a Report and Order adopting final rules to implement sections 303, 330(b), and 713 of the Communications Act of 1934 (the Act), as amended by the "Twenty-First Century Communications and Video Accessibility Act of 2010" (CVAA). See Pub. L. 111-260, §§ 202 and 203. The Commission also released an Erratum thereto on January 30, 2012. Pursuant to Section 202 of the CVAA, the Report and Order adopts rules governing the closed captioning requirements for the owners, providers, and distributors of video programming delivered using Internet protocol (IP). Pursuant to Section 203 of the CVAA, the Report and Order adopts rules governing the closed captioning capabilities of certain apparatus on which consumers view video programming.

The following rule sections and other requirements contain revised information collection requirements for which the Commission is seeking approval from the Office of Management and Budget (OMB):

(a) 47 CFR 79.4(c)(1)(ii) and 47 CFR 79.4(c)(2)(ii) require video programming owners (VPOs) and video programming distributors and providers (VPDs) to agree upon a mechanism to inform VPDs on an ongoing basis whether video programming is subject to the IP closed captioning requirements. The Commission considered and rejected adopting a single specific mechanism that could impose greater information collection burdens on small businesses. 47 CFR 79.4(c)(2)(ii) requires VPDs to make a good faith effort to identify video programming subject to the IP closed captioning requirements using the agreed upon mechanism. A VPD may rely in good faith on a certification by a VPO that video programming need not be captioned if: (A) the certification includes a clear and concise explanation of why captioning is not required; and (B) the VPD is able to produce the certification to the Commission in the event of a complaint. VPDs may seek Commission determinations that other proposed mechanisms provide adequate information for them to rely on the mechanisms in good faith.

(b) 47 CFR 79.4(c)(2)(iii) requires VPDs to make contact information available to end users for the receipt and handling of written IP closed captioning complaints. The contact information required for written complaints shall include the name of a person with primary responsibility for IP captioning issues and who can ensure compliance with the IP closed captioning rules. In addition, this contact information shall include the person's title or office, telephone number, fax number, postal mailing address, and e-mail address. VPDs must keep this information current and update it within 10 business days of any change.

(c) 47 CFR 79.4(d)(1) permits VPOs and VPDs to petition the Commission for a full or partial exemption from the IP closed captioning requirements, which the Commission may grant upon a finding that the requirements would be economically burdensome. 47 CFR 79.4(d)(2) requires the petitioner to support a petition for exemption with sufficient evidence to demonstrate that compliance with the requirements for closed captioning of IP-delivered video programming would be economically burdensome. The term "economically burdensome" means imposing significant difficulty or expense. The Commission will

consider the following factors when determining whether the requirements for closed captioning of IP-delivered video programming would be economically burdensome: (i) the nature and cost of the closed captions for the programming; (ii) the impact on the operation of the VPD or VPO; (iii) the financial resources of the VPD or VPO; and (iv) the type of operations of the VPD or VPO. 47 CFR 79.4(d)(3) provides that, in addition to these factors, the petitioner must describe any other factors it deems relevant to the Commission's final determination and any available alternatives that might constitute a reasonable substitute for the IP closed captioning requirements including, but not limited to, text or graphic display of the content of the audio portion of the programming. The Commission will evaluate economic burden with regard to the individual outlet. 47 CFR 79.4(d)(4) requires the petitioner to electronically file its petition for exemption, and all subsequent pleadings related to the petition. 47 CFR 79.4(d)(6) permits any interested person to electronically file comments or oppositions to the petition within 30 days after release of the public notice of the petition. Within 20 days after the close of the period for filing comments or oppositions, the petitioner may reply to any comments or oppositions filed. 47 CFR 79.4(d)(7) requires persons who file comments or oppositions to the petition to serve the petitioner with copies of those comments or oppositions and to include a certification that the petitioner was served with a copy. Any petitioner filing a reply to comments or oppositions must serve the commenting or opposing party with a copy of the reply and must include a certification that the party was served with a copy. Comments or oppositions and replies shall be served upon a party, its attorney, or its other duly constituted agent by delivering or mailing a copy to the party's last known address or by sending a copy to the e-mail address last provided by the party, its attorney, or other duly constituted agent. 47 CFR 79.4(d)(8) provides that, upon a finding of good cause, the Commission may lengthen or shorten any comment period and waive or establish other procedural requirements. 47 CFR 79.4(d)(9) requires persons filing petitions and responsive pleadings to include a detailed, full showing, supported by affidavit, of any facts or considerations relied on. Overall, while there is some burden associated with requesting an exemption, when granted, an exemption will relieve the entity from complying with the IP closed captioning requirements.

(d) 47 CFR 79.4(e)(1) provides that complaints concerning an alleged violation of the IP closed captioning requirements shall be filed in writing with the Commission or with the VPD responsible for enable the rendering or pass through of the closed captions for the video programming within sixty (60) days after the date the complainant experienced a problem with captioning. A complaint filed with the Commission must be directed to the Consumer and Governmental Affairs Bureau and submitted through the Commission's online informal complaint filing system, U.S. Mail, overnight delivery, or facsimile. 47 CFR 79.4(e)(2) sets forth certain information that a complaint should include. 47 CFR 79.4(e)(3) states that, if a complaint is filed first with the Commission, the Commission will forward complaints satisfying the above requirements to the named VPD and/or VPO, as well as to any other VPD and/or VPO that Commission staff determines may be involved. The VPD and/or VPO must respond in writing to the Commission and the complainant within 30 days after receipt of the complaint from the Commission. 47 CFR 79.4(e)(4) states that, if a complaint is filed first with the VPD, the VPD must respond in writing to the complainant within thirty (30) days after receipt of a closed captioning complaint. If a VPD fails to respond to the complainant within thirty (30) days, or the response does not satisfy the consumer, the complainant may file the complaint with the Commission within thirty (30) days after the time allotted for the VPD to respond. If a consumer re-files the complaint with the Commission and the complaint satisfies the above requirements, the Commission will forward the complaint to the named VPD, as well as to any other VPD and/or VPO that Commission staff determines may be involved. The VPD and/or VPO must then respond in writing to the Commission and the complainant within 30 days after receipt of the complaint from the Commission. 47 CFR 79.4(e)(5) requires VPDs and/or VPOs, in response to a complaint, to file with the Commission sufficient records and documentation to prove that the responding entity was (and remains) in compliance with the Commission's rules. If the responding entity admits that it was not or is not in compliance with the Commission's rules, it shall file with the Commission sufficient records and documentation to explain the reasons for its noncompliance, show what remedial steps it has taken or will take, and show why such steps have been or will be sufficient to remediate the problem. 47 CFR 79.4(d)(6) permits the Commission to request additional

information from any relevant entities when, in the estimation of Commission staff, such information is needed to investigate the complaint or adjudicate potential violation(s) of Commission rules. When the Commission requests additional information, parties to which such requests are addressed must provide the requested information in the manner and within the time period the Commission specifies. Overall, while the complaint procedures impose an information collection burden, the requirement for VPDs to publish contact information, described above, and to respond to consumer complaints provides an opportunity for VPDs to resolve complaints without Commission involvement.

(e) Under the CVAA, the requirements of Section 203 only apply to the extent they are “technically feasible.” Parties may raise technical infeasibility as a defense to a complaint or, alternatively, may file a request for a ruling under Section 1.41 of the Commission’s rules before manufacturing or importing the product.

(f) 47 CFR 79.103(b)(3)(i) permits manufacturers of apparatus that use a picture screen of less than 13 inches in size to petition the Commission for a full or partial exemption from the closed captioning requirements pursuant to Section 1.41 of the Commission’s rules, which the Commission may grant upon a finding that the requirements are not achievable. Such manufacturers may also assert that such apparatus is fully or partially exempt as a response to a complaint, which the Commission may dismiss upon a finding that the requirements are not achievable. 47 CFR 79.103(b)(3)(ii) requires the petitioner or respondent to support a petition for exemption or a response to a complaint with sufficient evidence to demonstrate that compliance with the requirements is not “achievable” where “achievable” means with reasonable effort or expense. The rule further sets forth certain factors that the Commission will consider when determining whether the requirements are not “achievable.”

(g) 47 CFR 79.103(b)(4) permits manufacturers of apparatus to petition the Commission for a full or partial waiver of the closed captioning requirements, which the Commission may grant upon a finding that the apparatus meets one of the following provisions: (i) The apparatus is primarily designed for activities other than receiving or playing back video programming transmitted simultaneously with sound; or (ii) The apparatus is designed for multiple purposes, capable of receiving or playing back video

programming transmitted simultaneously with sound but whose essential utility is derived from other purposes.

(h) The Report and Order also established procedures for the filing of written complaints alleging violations of the Commission's rules requiring apparatus designed to receive, play back, or record video programming to be equipped with built-in closed caption decoder circuitry or capability designed to display closed captions. The Commission set forth information that such complaints should include. A written complaint filed with the Commission must be transmitted to the Consumer and Governmental Affairs Bureau through the Commission's online informal complaint filing system, U.S. Mail, overnight delivery, or facsimile. The Commission may forward such complaints to the named manufacturer or provider, as well as to any other entity that Commission staff determines may be involved, and may request additional information from any relevant parties when, in the estimation of Commission staff, such information is needed to investigate the complaint or adjudicate potential violations of Commission rules.

FEDERAL COMMUNICATIONS COMMISSION.

Marlene H. Dortch,
Secretary.

[FR Doc. 2012-7601 Filed 03/29/2012 at 8:45 am; Publication Date: 03/30/2012]